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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,918	11/01/2001	Sinpei Nakata	KAS-157	3025
24956	7590	02/12/2009	EXAMINER	
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.			ALEXANDER, LYLE	
1800 DIAGONAL ROAD				
SUITE 370			ART UNIT	PAPER NUMBER
ALEXANDRIA, VA 22314			1797	
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			02/12/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* SINPEI NAKATA,  
TAKEHIKO YOTSUGI and HIROAKI ISHIZAWA

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Application No. 09/936,918  
Technology Center 1700

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Mailed: February 12, 2009

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Before PAMELA S. BENNETT, *Review Team Paralegal.*

BENNETT, *Review Team Paralegal.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on January 29, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

**EXAMINER'S ANSWER, GROUNDS OF REJECTION**

A review of the file reveals that the Examiner's Answer mailed September 4, 2008 sets forth a new ground of rejection of claims 1-3, 6 and 8-12 under 35 U.S.C. 103(a) as being unpatentable over Fritchie et al. (USP 6,022,746) [page 3]. However, while it is noted that Carbonari et al. (USP 5,730,938) is included at the top of page 4 in the discussion of this rejection, and was included in the "Evidence Relied Upon" also appearing on page 4, it was not included in the statement of the rejection. Clarification is required.

**CONCLUSION**

Accordingly, it is **ORDERED** that the application be returned to the Examiner:

- 1) to issue a PTOL-90 clarifying the record as to whether Carbonari et al. should have been included in the statement of the 103(a) rejection of claims 1-3, 6 and 8-12; and
- 2) for such other further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

PSB

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